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## FISCAL IMPACT REPORT

SPONSOR Smith DATE TYPED 2/10/04 HB \_\_\_\_\_

SHORT TITLE Allow District and Metro Court Elections, CA SJR 4

ANALYST Koplik

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			See Narrative		

(Parenthesis ( ) Indicate Expenditure Decreases)

### INFORMATION

LFC Files

Response Received From

Administrative Office of the Courts

### SUMMARY

#### Synopsis of Bill

Senate Joint Memorial 4 proposes amending Article 6 of the Constitution so that district court judges are subject to partisan elections every 6 years, and metropolitan court judges every four years. It stipulates that when a district or metropolitan judge leaves office, the governor would appoint a temporary replacement until the next election, whereupon a successor would be chosen until the expiration of the original term. Furthermore, the memorial would repeal Article 6, Sections 36 and 37 of the Constitution, which sets forth the district court and metropolitan court nominating commissions.

It is proposed that this resolution should be brought before the electorate as a Constitutional amendment at the next general or special election.

#### Significant Issues

The **Administrative Office of the Courts** states that the current system for electing and retaining judges was put in place by a constitutional amendment in 1988. The system has been augmented with the performance evaluation of judges. There have been two retention elections that involved recommendations by the Judicial Performance Evaluation Committee. At the 2002

## **Senate Joint Resolution 4 -- Page 2**

general election, the Committee recommended that four judge not be retained. Only one of the judges was retained. If the current system for nominating judges is repealed, there is a possibility that the state will be the subject of several voting rights lawsuits.

The Administrative Office of the Courts cites a study of the American Judicature Society (found at [www.ajs.org/selection/ms\\_descrip.pdf](http://www.ajs.org/selection/ms_descrip.pdf)) entitled “Merit Selection: The Best Way to Choose the Best Judges” which explains that merit selection (the system currently used in New Mexico) searches for the most qualified candidates, de-politicizes the selection process, and helps to enable women and minority candidates.

### **FISCAL IMPLICATIONS**

While there would be a nominal impact to the general fund, the process of changing the structure of elections from retention to partisan could strongly impact individual judges, and perhaps their impartiality.

Currently, the judicial nominating commissions are administered by the University of New Mexico’s Law School.

The Secretary of State notes it will cost \$40 thousand for this constitutional amendment.

**SK/lg**